Supreme Court, U.S.
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In the Supreme Court of the United States

BRIAN DANIELS, AKA BRIAN TRIPLETT,

Petitioner,

v.

ALAN M. UCHTMAN,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In *Johnson v. United States*, -- U.S. --, 125 S. Ct. 1571 (2005), this Court resolved the issue of whether a state court decision can be a "fact" that triggers a one-year limitations period in federal habeas cases challenging the enhancement of a federal prisoner's sentence. This Court answered in the affirmative, holding that the limitations period in such cases "begins when a petitioner receives notice of the [state court] order vacating the prior conviction, provided that he has sought it with due diligence in the state court, after entry of judgment in the federal case with the enhanced sentence." *Id.* at 1575.

The questions presented in this petition are these:

1. Whether, in a case by a state prisoner involving newly discovered evidence, the one-year limitations period for a federal habeas claim is triggered when the prisoner obtains a final state-court adjudication regarding the new evidence that is contrary to federal law?

2. Whether a court should address the merits of a federal habeas petition establishing a credible claim of actual innocence, regardless of whether the petition is timely under the Antiterrorism and Effective Death Penalty Act?

PARTIES TO THE PROCEEDING

The parties appearing here and below are (1) Brian Daniels, aka Brian Triplett, the petitioner listed in the caption, and (2) Alan M. Uchtman, Warden at the Menard (Illinois) Correctional Center.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Brian Daniels, aka Brian Triplett ("Daniels") respectfully requests that a writ of certiorari issue to review the decision of the United States Court of Appeals for the Seventh Circuit in this case.

OPINIONS BELOW

The November 7, 2002 judgment of the Illinois Appellate Court affirming the trial court's order denying Daniels' state law post-conviction petition is unreported. (Pet. App. 16a-38a.) The Supreme Court of Illinois' February 5, 2003 decision denying Daniels' petition for leave to appeal is unreported. (Pet. App. 15a.) The April 26, 2004 decision of the United States District Court for the Northern District of Illinois denying Daniels' 28 U.S.C. § 2254 habeas petition as untimely is unreported. (Pet. App. 6a-14a.) The opinion of the United States Court of Appeals for the Seventh Circuit affirming the district court is reported at 421 F.3d 490 (7th Cir. 2005) and is reproduced at pages 1a to 5a of the Appendix to this Petition.

JURISDICTION

The United States Court of Appeals for the Seventh Circuit entered judgment on August 29, 2005. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1), which authorizes this Court to review a judgment of the Seventh Circuit denying a petition for writ of habeas corpus under 28 U.S.C. § 2254.

STATUTES INVOLVED

This case involves 28 U.S.C. § 2244 and 28 U.S.C. § 2254, which are reproduced at pages 64a to 70a of the Appendix.

In pertinent part, 28 U.S.C. § 2244 provides:

(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

In pertinent part, 28 U.S.C. § 2254 provides:

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim —

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

STATEMENT OF THE CASE

A. *Prior Proceedings.*

In 1984, Petitioner Brian Daniels was convicted in an Illinois state court for the December 24, 1981 murder of Edward Knight. (Pet. App. 1a.) It is undisputed that the *sole* evidence at trial linking Daniels to the crime was the eyewitness testimony of a child — a newspaper delivery boy named Caston Rollins. (Pet. App. 8a.) Rollins, who was ten years old at the time of the crime and 12 years old at the time of Daniels' trial, testified at trial that he saw Daniels as part of a group of persons at the crime scene. (Pet. App. 8a.)

Fifteen years later, in 1999, Rollins (as an adult) executed an affidavit recanting his identification testimony concerning Daniels. (Pet. App. 9a.) Based on that newly discovered evidence of Rollins' false testimony, Daniels promptly filed a *pro se* Petition for Post-Judgment Relief Pursuant to Section 2-1401 of the Illinois Code of Civil Procedure in the Illinois Circuit Court for Cook County. (Pet. App. 19a-20a.) Daniels subsequently amended his *pro se* petition to add a claim for a *Brady v. Maryland* violation. (Pet. App. 19a-20a.) Daniels' *Brady* claim was based on Daniels' later discovery from Rollins that the State had failed to disclose impeachment evidence regarding a juvenile burglary charge pending against Rollins at the time Rollins testified against Daniels. (Pet. App. 20a.)

In January and March 2001, the Illinois circuit court conducted an evidentiary hearing and heard testimony from witnesses regarding the claims in Daniels' post-conviction petition. (Pet. App. 20a-27a.) At the January 2001 post-

conviction hearing before the state court, Rollins testified that his trial testimony, which identified Daniels as being outside Edward Knight's house on the morning of December 24, 1981, was false. (Pet. App. 22a.) Rollins testified that he indeed had witnessed a group of five men standing outside Knight's house on the morning of December 24, 1981, but that Rollins in fact never saw Daniels with the group. (Pet. App. 22a.) Rollins explained that as a child, he had testified falsely against Daniels because of repeated pressure from Chicago police detectives. (Pet. App. 22a.)

On March 26, 2001, the Illinois circuit court denied Daniels' post-conviction petition in its entirety. (Pet. App. 39a-45a.) The Illinois Appellate Court affirmed the circuit court's ruling on November 7, 2002. (Pet. App. 16a-38a.) The Illinois Supreme Court denied Daniels' petition for leave to appeal that decision on February 5, 2003. (Pet. App. 15a.)

Daniels filed with the district court a federal petition for a writ of habeas corpus under 28 U.S.C § 2254 on February 4, 2004, within one-year of the state court's final adjudication of his claims concerning the newly discovered evidence from Rollins. The district court dismissed Daniels' habeas petition as untimely under 28 U.S.C.§ 2244(d), holding that the state court's final adjudication concerning the newly discovered evidence did not trigger the one-year limitations period. (App. Pet. 9a-13a.) The district court further held that Daniel's "claims of actual innocence" were not relevant to the timeliness issue, citing *Flanders v. Graves*, 299 F.3d 974 (8th Cir. 2002). (App. Pet. 13a.)

B. *Proceedings Before The Seventh Circuit.*

Daniels appealed. In the Seventh Circuit, Daniels presented two basic arguments.